



FREDERICK COUNTY PLANNING COMMISSION

March 19, 2014

TITLE: **Monrovia Town Center PUD DRRA**

FILE NUMBER: **DRRA 12-06**

REQUEST: **Finding of Consistency**

Review of the Draft *Development Rights and Responsibilities Agreement (DRRA)* for the Monrovia Town Center PUD development and Off-Site Commercial Property to determine whether the Draft DRRA is consistent with the County Comprehensive Plan.

PROJECT INFORMATION:

LOCATION: North side of MD 80 east and west sides of MD 75
ZONING: Agricultural (A) and General Commercial (GC)
REGION: Urbana
WATER/SEWER: PS – Planned Service and NPS – No Planned Service
COMP. PLAN/LAND USE: Low Density Residential and General Commercial

APPLICANT/REPRESENTATIVES:

APPLICANT: 75-80 Properties, LLC and Payne Investments LLC
OWNER:
ENGINEER:
ATTORNEY: Rand Weinberg, Esq.,

STAFF: Jim Gugel, Planning Director

RECOMMENDATION: Staff recommends that the Frederick County Planning Commission find that the location, character, and extent of the proposed Development Rights and Responsibilities Agreement for the Monrovia Town Center PUD are consistent with the Frederick County Comprehensive Plan.

ATTACHMENTS:

1. Draft Development Rights and Responsibilities Agreement
2. Draft APFO Letter of Understanding

STAFF REPORT

ISSUE

The Planning Commission's role in the review of the *Development Rights and Responsibilities Agreement (DRRA)* for the Monrovia Town Center PUD development and Off-Site Commercial Property is to determine whether the proposed agreement is consistent with the County Comprehensive Plan.

BACKGROUND

The petition from 75-80 Properties, LLC and Payne Investments LLC was submitted to the County on November 16, 2012. On December 13, 2012, the BOCC voted to accept the petition and move forward with staff review and negotiation of the DRRA. Since that time, staff and the Developer have worked together to create the attached draft DRRA and draft APFO Letter of Understanding ("LOU"). The Adequate Public Facilities review will also be incorporated into the DRRA process. In addition, this DRRA is under review concurrent with a proposed rezoning to Planned Unit Development (PUD) for a Phase I Plan.

On November 20, 2013, the Planning Commission held a public hearing on the draft DRRA, and found it to be consistent with the County Comprehensive Plan. The DRRA was revised based on the changes to the PUD Concept Plan discussed below. Therefore, the revised DRRA is now before the Planning Commission for a decision as to consistency with the Comprehensive Plan.

Revisions to the PUD Concept Plan

The initial Phase I Plan proposed 1,510 dwellings and was considered by the Board of County Commissioners (BOCC) at public hearings held on January 14, 15, and 16, 2014. On January 16, 2014 the BOCC voted to approve a revised PUD Phase I Concept Plan that reduced the proposed development to 1,250 dwellings with 50% to be age-restricted, among other conditions. The overall acreage proposed for the PUD zoning was also reduced from 457.3 ac. to 394.5 ac.

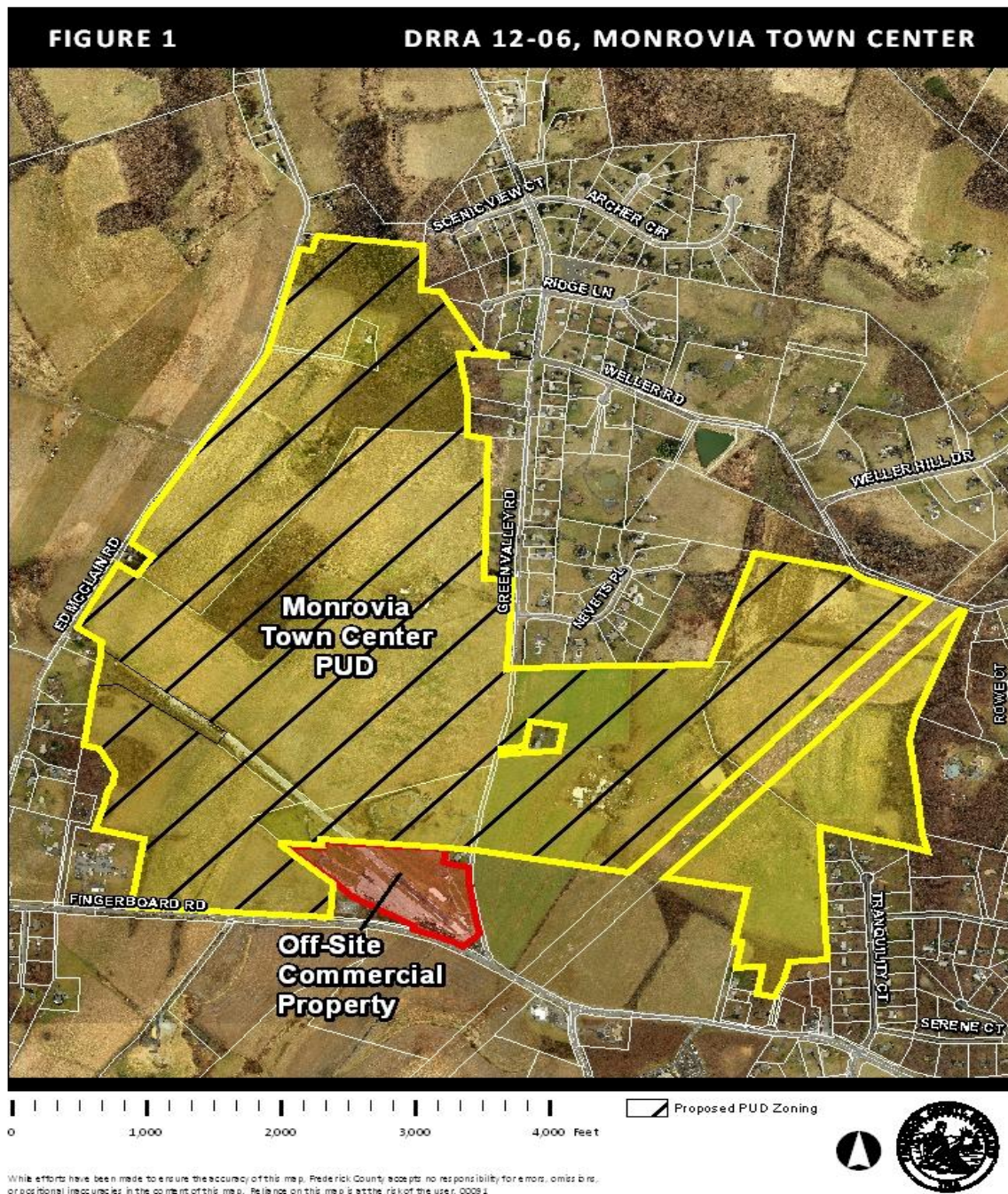
Summary of Development History

The Monrovia Town Center PUD project was initially rezoned from Agricultural, R-1, and R-3 to Planned Unit Development (PUD) in 2006. The Phase I PUD Plan proposed an age restricted development with a maximum of 1,608 dwellings. As part of the 2010 County Comprehensive Plan update the PUD zoning and its Low Density Residential land use plan designation were removed. The properties were also removed from the Monrovia community growth area. The 2012 Comprehensive Plan/Zoning review, adopted in September 2012, restored the Low Density Residential land use plan designation and its status as part of the Monrovia community growth area.

The DRRA and the APFO/LOU will also cover an adjoining area (15.4 acres) referred to as the Off-Site Commercial Property, currently zoned General Commercial (GC). This area is a portion of a parcel that is also part of the proposed PUD (see attached map). There is an active site plan (SP #13-03) under review for the commercial property and proposes approximately 143,500 square feet of commercial uses.

ANALYSIS

The Development Rights and Responsibilities Agreement (DRRA) review and approval procedures are found in Chapter 1-25 of the County Code. If a DRRA is requested concurrent with any other development approval such as a rezoning or adequate public facilities approval, the applicable provisions in Chapters 1-19 and/or 1-20 of the County Code would apply. The rezoning and APFO, while running concurrent with the DRRA approval, are separate actions.



Summary of Proposed DRRA – Based on REVISED PUD Concept Plan

The two primary components of any DRRA are the *development rights* and the *development responsibilities* that will be fixed for the project for a specified time period. The Monrovia Town Center DRRA also proposes to include the Adequate Public Facilities Ordinance (APFO) review.

The changes proposed in this Draft DRRA based on the revised PUD Concept Plan include:

- Establishes a maximum number of dwellings at 1,250 versus 1,510 dwellings
- Requires 50% of the dwellings to be age-restricted
- Establishes dwelling mix at 70% single-family (minimum) and 30% townhouses (maximum)
- Prohibits 2 over 2's and other multi-family dwellings
- Reduces the term of the agreement of the DRRA from 25 years to 18 years

Described below is a summary of the rights and the responsibilities applicable to this development. The attached draft DRRA and accompanying exhibits include the specific development approvals and conditions of approval, including the timing of construction, payments, and/or dedication of certain public infrastructure with respect to the development timing.

Development Rights

- Maintain the Planned Unit Development (PUD) zoning with a maximum of 1,250 dwelling units.
- Includes Off-Site Commercial Property which can be developed in accordance with the current GC zoning.
- Maintain or obtain other approvals based on current regulations or, if applicable, the regulations in effect when the approvals were granted.
- Proceed with project build out for the various phases as outlined in the DRRA.
- Freeze current County development regulations for the duration of the DRRA.
- Maintain the terms of the DRRA for a period of 18 years.
- Receive APFO approval and LOU for the PUD concurrent with the DRRA approval.

Development Responsibilities

This is a summary of the major conditions of approval. The attachments provide detailed information on other conditions and the timing of approvals for the development.

- Construct or pay for/guarantee water and sewer improvements as detailed in the LOU.
- Pay the APFO school construction fees based on failure at any of the school levels.
- Remit the payment in lieu fees under the Moderately Priced Dwelling Unit regulations.
- Pay all normal and customary development review fees and impact fees.
- Dedicate and convey a +/-50 acre high school site.
- Dedicate and convey a +/- 4 acre site for a fire station.
- Dedicate and convey +/- 25 acres of parkland (subject to approval by the County).
- Pay into escrow accounts for various road improvement projects in the Urbana, New Market, and Monrovia areas. The exact payment amounts have not yet been determined.

The primary component of this DRRA is to document the pending request for the revised PUD. Major public facilities improvements will be provided as outlined in the APFO LOU and as summarized above to include roads, water, sewer, and school improvements as well as land conveyed for public uses (school, park, fire station).

[illegible]

Finding of Consistency

A reference for a finding of consistency can be found in the Land Use Article of the Annotated Code of Maryland. *Section 1-303 Consistency – General Requirement* reads:

....requires an action be “consistent with” or have “consistency with” a comprehensive plan, the term shall mean an action taken that will further, and not be contrary to, the following items in the plan: (1) policies; (2) timing of the implementation of the plan; (3) timing of development; (4) timing of rezoning; (5) development patterns; (6) land uses; and (7) densities or intensities.

The following from the Maryland Department of Planning Models and Guidelines, *Achieving Consistency under the Planning Act* also provides guidance on determining consistency.

The fundamental concept of “consistency” under the new Planning Act is that land use regulations and decisions should agree with, and implement what the Plan recommend and advocates. A consistent regulation or decision may show clear support for the Plan. It may also be neutral – but it should never undermine the Plan.

County Comprehensive Plan

The Draft DRRA for the Monrovia Town Center PUD is proposed on land that is designated for Low Density Residential use within the Monrovia community growth area and the proposed density is within the limits as prescribed in the Frederick County Comprehensive Plan. The Off-Site Commercial Property is designated General Commercial on the County Comprehensive Plan and is within the Monrovia community growth area.

Further, the timing of development and infrastructure improvements outlined within the DRRA provide a mechanism to stage development consistent with the policies of the Comprehensive Plan. The DRRA, in combination with the APFO LOU and Phase I Plan, establishes timing thresholds for the construction of or funding contributions to road, water/sewer, and school improvements. The DRRA also requires the dedication and conveyance of a high school site, parkland, and a fire station site all of which are identified on the Land Use Plan map of the Comprehensive Plan. In addition, the proposed development design along with the proposed concept plan will further community design policies of the County Comprehensive Plan.

RECOMMENDATION

Staff recommends that the Frederick County Planning Commission find:

That the location, character, and extent of the Draft Development Rights and Responsibilities Agreement for the Monrovia Town Center PUD is consistent with the Frederick County Comprehensive Plan.

PLANNING COMMISSION ACTION

MOTION TO FIND CONSISTENT

I move to find that the that the location, character, and extent of the proposed Development Rights and Responsibilities Agreement (DRRA 12-06) for the Monrovia Town Center PUD **is consistent** with the Frederick County Comprehensive Plan.

MOTION TO FIND INCONSISTENT

I move to find that the that the location, character, and extent of the proposed Development Rights and Responsibilities Agreement (DRRA 12-06) for the Monrovia Town Center PUD **is not consistent** with the Frederick County Comprehensive Plan.